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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,237	08/13/2001	David Gibbs	61-7 US	4306

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EXAMINER

CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,237

Applicant(s)

GIBBS ET AL.

Examiner

MONZER R CHORBAJI

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6, 8, 10 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Runnells (U.S.P.N. 3,937,236).

With respect to claim 1, Runnells teaches an apparatus for cleaning dental instruments (figure 1) including the following: a sealed container with an upper portions thereof (figure 1, 112), a cap (figure 1, 16), and an agitator when dental instruments are inserted and withdrawn (col.3, lines 9-20).

With respect to claims 6, 8, 10, and 19-20, Runnells discloses the following: loose granular material within the disinfecting solution that impacts against the distal working end of the dental instruments (col.4, lines 45-47), loose granular material is an organic material (col.4, lines 45-47), an electronically controllable ultrasonic transducer (col.3, lines 9-20), means for securing the container within the base (col.2, lines 65-67 and figure 2, 31 and 21a), and the container has wall in one portion that is substantially thicker than in another portion (figure 2, 45 and unlabeled side walls).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Runnells (U.S.P.N. 3,937,236) in view of Doyon (U.S.P.N. 5,363,870).

The teachings of Runnells have previously been set forth with regard to claims 1, 6, 8, 10 and 19-20. With respect to claims 2-5 and 7, Runnells fails to teach the concept of using a membrane or a plug, which is sufficiently strong and dense to clean debris from dental instruments. However, with respect to claims 2-5, and 7, Doyon teaches

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using a membrane or a plug (figure 1, 16), which is sufficiently strong and dense to clean debris from dental instruments (col.5, lines 67-68 and col.6, lines 1-2). Thus, it would have been obvious to one having ordinary skill in the art to modify the apparatus of Runnells to include a membrane in order to enable multiplicity of dental tools to be removably and readily mounted (Doyon, col.1, lines 42-45).

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Runnells (U.S.P.N. 3,937,236) in view of Duthie, Jr. (U.S.P.N. 5,547,635).

With respect to claim 9, Runnells fails to teach specific types of the loose material. However, Duthie, Jr teaches the concept of using glass beads (col.4, lines 5-7) among other methods for treating dental instruments (col.11, lines 42-46). Thus, it would have been obvious to one having ordinary skill in the art to substitute one known loose granular material for another within the disinfecting solution as taught by Duthie,

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Runnells (U.S.P.N. 3,937,236) in view of Kotsopey (U.S.P.N. 6,102,056).

With respect to claim 11, Runnells fail to teach the use of a heater. However, Kotsopey discloses the use of a heater (col.2, lines 58-59). Thus, it would have been obvious to one having ordinary skill in the art to modify the apparatus of Runnells to include a heater in order to provide a good cleaning of the article (Kotsopey, col.3, lines 27-29).

9. Claims 12-13 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Runnells (U.S.P.N. 3,937,236) in view of Doyon (U.S.P.N. 5,363,870).

The teachings of Runnells have previously been set forth with regard to claims 1, 6, 8, 10 and 19-20. However with respect to claims 12 and 14, Runnells fails to teach the concept of using a wiper and a sealing cover. However, Doyon teaches using a wiper, which is sufficiently strong and dense to clean debris from dental instruments (col.5, lines 67-68 and col.6, lines 1-2) and a sealing cover (figure 1, 16). Thus, it would have been obvious to one having ordinary skill in the art to modify the apparatus of Runnells to include a wiper in order to squeeze excess water from brushes (Doyon, col.5, lines 67-68).

With respect to claims 13 and 15-16, Runnells teaches the following: a vibrator agitator (col.1, lines 13-16), an ultrasonic agitator (col.3, lines 9-20), and the disinfecting solution has therein-loose abrading particulate matter (col.3, lines 45-47).

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Runnells (U.S.P.N. 3,937,236) in view of Wright (U.S.P.N. 4,236,889).

The teachings of Runnells have previously been set forth with regard to claims 1-8, 10, and 19-20. However with respect to claim 17, Runnells fails to teach the concept of a battery powered holder. Wright discloses the use of batteries in dental cleaning devices (figure 2, 10 and 12). Thus, it would have been obvious to one having ordinary skill in the art to modify the apparatus of Runnells to include batteries in order for the device to be small, light and compact (Wright, col.1, lines 29-32).

11. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Runnells (U.S.P.N. 3,937,236) in view of Wright (U.S.P.N. 4,236,889) and further in view of Duthie, Jr. (U.S.P.N. 5,547,635).

With respect to claim 18, both Runnells and Wright fail to teach using particulate matter disposed within the solution for cleaning dental tools. However, Duthie, Jr teaches the concept of using glass beads (col.4, lines 5-7) among other methods for treating dental instruments (col.11, lines 42-46). Thus, it would have been obvious to one having ordinary skill in the art to substitute one known loose granular material for another within the disinfecting solution as taught by Duthie, Jr (col.4, lines 5-7).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 8:30-5:00.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Monzer R. Chorbaji *MRC*

Patent Examiner

AU 1744

03/18/2004

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